

APPENDIX 5

The council run day nurseries – Commissioning Approach

The commissioning approach to support the decision making for the most appropriate route for the fourteen day nurseries followed a staged process, this is outlined below: t

Stage	Description of Stage
1. Options selection	All thirteen options for service reviews were analysed for suitability with the day nurseries project. Options that were suitable for future delivery were progressed to Stage 2.
2. Development of decision process & options appraisal for recommendations	A decision making process was developed to determine the appropriate treatment of each day nursery, depending on their performance against criteria of financial viability, market provider interest and Sufficiency Duty. An option appraisal template was created in case a nursery had more than one viable option – i.e. the nursery could be run by the council or a market provider.
3. Market sounding exercise	Market providers were invited to express their interest in taking on the running of the day nurseries through a market sounding questionnaire. Providers that expressed sufficient interest were invited to a meeting for further discussion.
4. Completion of recommendations	The financial and Sufficiency Duty data, as well as the findings from the market sounding exercise were applied to the process developed in Stage 2.

Summary of Recommendations

Following the completion of a market sounding exercise and individual assessment of day nurseries, the following recommendations are made:

- The council to cease running and funding all fourteen of its day nursery services;
- Ten of the day nurseries have sufficient market interest to be invite proposals from the private, voluntary and independent (PVI) provider market; this will include TUPE of existing staff. If there is no viable provider for a nursery following this process, then the day nursery will be closed and the building asset will be subject to the usual asset disposal process;
- Two of the day nurseries (Cherry Tree and Ladywood) have been temporarily closed due to low demand for places. The members of staff from Cherry Tree and Ladywood day nurseries have been relocated to alternative sites to reduce reliance on agency staff and/or where there were vacancies. There will be a permanent closure of the day nursery services at Cherry Tree and Ladywood and the asset will be subject to the usual asset disposal process;
- The building is owned by the council and staff are in the BCC early years structure. The service will be offered to school in the first instance with staff transferred internally. If no interest from the school the service will be offered to the market.
- One day nursery's staff and building are employed and owned by South & City College and leased to the Early Years, Childcare & Children's Service. The day

nursery service will be offered to the College in the first instance and then the service will be closed if there is no interest from South & City College.

Stage 1. Options Selection

All thirteen options for consideration during service review were analysed for suitability with the Day nurseries project. Options that are deemed suitable for future delivery were progressed to Stage 2 and the rationale for those not selected was established.

Ref		Option	Commentary	Include in Options Appraisal?
1	No longer do it	Decommission the Service: the cessation of the service whole or in part	Yes Day Nurseries could be decommissioned if they aren't financially viable and there is no sufficiency duty in the area	Yes
2	We do it	Continue to provide in-house service (As Is / Redesign / transfer to another function or service - will need to separate if more than one option to be considered)	Yes include 'continue to provide' in options	Yes
3		The setting up of a new Council function or unit to deliver a particular service.	No new function to establish	No
4	We give it to someone else to do	Supplementary contracts / term contract framework agreements	No other contracts/framework agreements	No
5i		Commission the market / the market delivers the service	Yes include the market as a provider in options the appraisal	Yes
5ii		Commission the market to deliver the service via a grant	There is no grant available to support delivery	No
6		Transfer of an asset to Community, Trust, Charity, Service User Group or others	Include alongside option 5i - as part of having the market deliver the service. There is no funding for BCC to provide grants.	No
7		Market Shaping to establish quality and adequacy of supply to meet a range of needs from individuals purchasers	Market already exists	No
8		The re-negotiation of existing arrangements with current providers	No existing arrangements to negotiate	No
9i	We create a new entity to do it	The transfer of a function to a Wholly Owned Company (WOC)	No new function to establish	No
9ii		The transfer of a function to an Emergent Organisation	No emergent organisations to transfer to	No
10	We share doing it	Joint Venture, i) the creation of a public-private partnership, through a strategic contract; ii) joint venture company; iii) Service Delivery via a PFI route	Joint venture not appropriate	No
11	We tap into others to do it	Use of existing third-party contracts, e.g Crown Commercial Services	No third party contracts to use	No
12	We share doing it	The joint commissioning or delivery of the service outcomes - collaboration (including Shared Services)	Could look at commissioning with other service providers - e.g. school or other early years outlet. BCC has no funding available.	No
13	A mixed approach	Use a mixture or combination of options.	N/A	No

Suitable options include:

1. **The council to withdraw** from running the day nursery;
2. **The council continue to run** the day nursery and develops a robust financial improvement plan;
3. **Outsource** – an existing or new market provider takes over the running of the day nurseries which involves TUPE of staff and the lease of the current building.

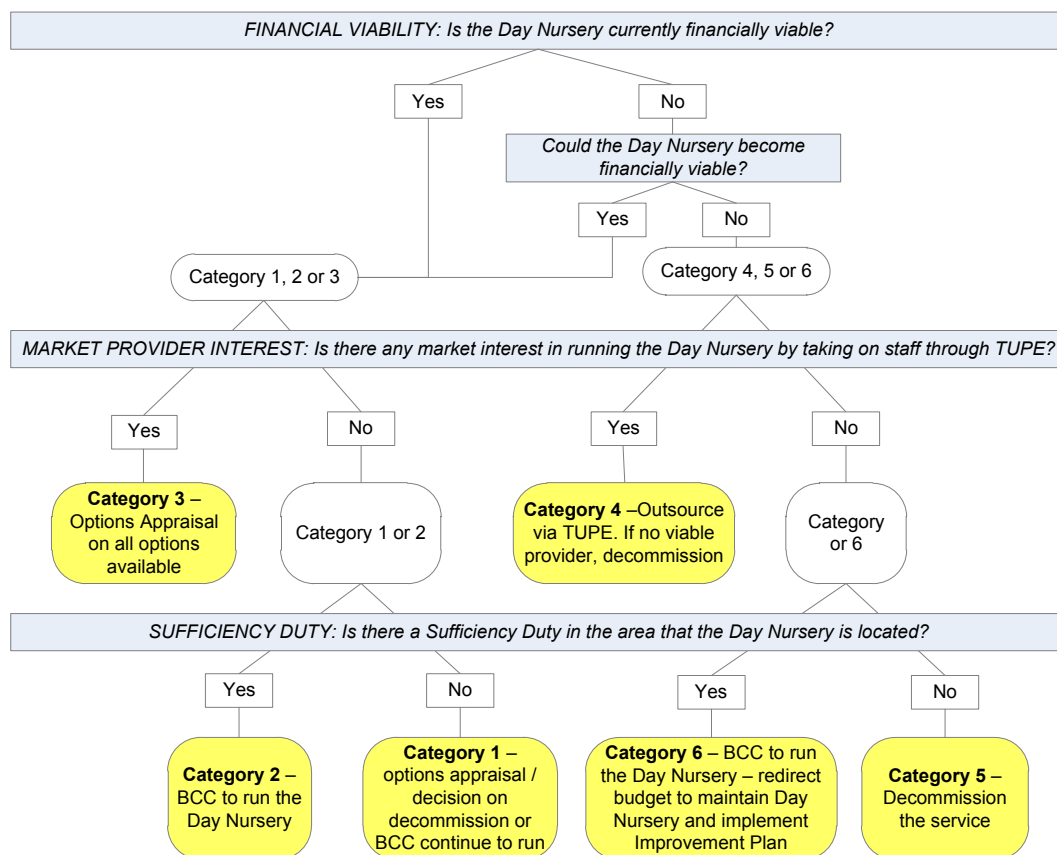
Stage 2. Development of decision process & options appraisal for recommendations

A process was developed that could treat each day nursery independently to ensure the right decision was made following sorted each of them into categories depending on their relative position on:

1. Financial performance
2. Market provider interest
3. Sufficiency Duty requirements

A decision tree approach to sorting Day nurseries into categories is outlined below.

Day Nurseries Pre-Options Appraisal Assessment



Options Appraisals

An options appraisal was designed for any day nurseries where it was financially viable for the council running it as well as suitable market provider interest.

The following outcomes were developed and weighted for the options appraisal.

Key outcomes	Weighting
High quality Ofsted Registered Childcare Places	5
EEE places for 15 & 30 hours for 2/3 year olds	5
Affordable childcare	4
Well qualified staff within ongoing CPD	3
Service for vulnerable children and families	4
Out of school childcare linked to local schools	3
Cost effective and breaks even	5
Overarching Considerations	
Flexibility (to meet changing demand from customers)	4
Timescale and Implementation	5
Minimise impacts on current customers	5
Minimise impact on other services in shared premises	4
Innovation or opportunity to innovate	3
Risk to Council - Financial	5
Risk to Council - Reputational	3
Social Value	5
Meet Sufficiency Duty where applicable	5

The outcomes and overarching considerations were also used in the market sounding exercise (detailed below) to indicate to the market the kind of provision that the council is seeking.

Stage 3. Market sounding exercise

A market sounding questionnaire was published on the councils Intend and Find it in Birmingham systems between 11th June 2018 – 25th June 2018. The questionnaire was designed to develop the councils understanding of the market interest in taking on the running of the day nurseries.

It was made clear that the market sounding exercise would not form part of any potential, subsequent due diligence process and that providers would need to consider:

- That there are existing staff employed within the nurseries and upon any transfer(s), TUPE would apply;
- Lease agreements would need to be entered into in respect of the day nursery buildings;
- The council are not looking to commission or procure a day nursery service from providers;
- The Council will be assessing the future of the day nurseries on a case by case basis.

Interested providers signed a confidentiality agreement prior to receiving all information and entering into more detailed discussions with the council.

A summary of the market sounding exercise is below:

- 26 providers registered an interest in the exercise;
- 16 providers returned a completed questionnaire;
- 13 providers were invited to attend a meeting with the project team to discuss their responses.

The findings of the market sounding exercise have been used to inform the second stage of the decision-making process on market provider interest, alongside the financial viability of the council running the day nursery and the Sufficiency Duty in the ward of the nursery. All nurseries were assessed on an individual basis due to their unique circumstances.

Stage 4. Completion of recommendations

The decision tree developed in Stage 2 was used to decide on the recommendation for each day nursery based on their individual circumstances for:

1. Financial Viability

The cost data for day nurseries is taken from the end of 2017/18 financial outturn and includes the expenditure (running costs, including staff and building costs) and income (fees from customers). Each day nursery also had a 2018/19 improvement plan developed to ascertain whether it would be possible to make any of the nurseries financially viable through improvements to rental costs, running costs and re-structuring of staff.

2. Market provider interest

The market sounding exercise was used to gauge the provider interest in taking on the running of the day nurseries which would include TUPE of staff. The project team assessed the level of confidence in the ability of providers to meet the requirements of TUPE

3. Sufficiency Duty

The latest Sufficiency Duty data was used to determine whether there was an oversupply / undersupply on a ward level. The latest data relates to the old ward boundary layouts for Birmingham and is not currently available against the new ward boundaries.

A detailed breakdown of data for each day nursery is provided at the back of this report.

Options Appraisal

None of the day nurseries proceeded to full options appraisal due to a lack of long term financial viability for any of them. The outcomes and overarching considerations developed in the options appraisal (Stage 2 above) will be used to inform the specification to invite proposals for 10 of the day nurseries where there is market provider interest in taking on the running of the day nurseries. The council will not be commissioning or funding any of the day nurseries but will seek to align the most appropriate market provider to each setting whilst seeking to minimise disruption to staff and customers.

This left two options as the only viable alternatives - invite the PVI market to submit proposals to run the nurseries and close the service. Under the closure of the service option, the estate asset would be disposed of via the usual council asset disposal process and would be subject to a separate report.

Recommendations

The recommendation is for the council to withdraw from running and funding all fourteen day nurseries due to a lack of financial viability.

The market sounding exercise has demonstrated that there is a sufficient level of suitable market interest to formally invite the market to submit proposals in order for BCC to identify the most suitable providers that could take on the running of the day nurseries (on a case by case basis) via a TUPE transfer of staff and through the lease of a building.

The recommendation equates to Category 4 in the decision tree – “Outsource via TUPE. If no viable provider, decommission.”

The individual recommendations for the fourteen day nurseries are provided below.

Day Nursery	Recommended Option
Bertram Road Nursery	Opportunity to TUPE staff to PVI provider. If no viable provider, close service. Asset subject to the usual asset disposal process, which needs to take in to account the HWB lease arrangements for the next 5 years.
Birchfield Nursery	Opportunity to TUPE staff to PVI provider. If no viable provider, close service. Asset subject to the usual asset disposal process.
Cherry Tree Nursery	Service has been temporarily closed due to low demand for places. Staff have been relocated to alternative sites where there are currently vacancies. Permanent closure of service. Asset currently identified for educational use and will be retained until a final decision is made.
Golden Start Nursery	Staff and the building are employed/owned by South & City College and leased to early years. The service will be offered to South & City College in the first instance. Service offered to the market if no interest from South & City College.
Kitts Green Nursery	Opportunity to TUPE staff to PVI provider. If no viable provider close service. Asset subject to the usual asset disposal process.
Ladywood Nursery	Service has been temporarily closed due to low demand for places. Staff have been relocated to alternative sites where there are currently agency staff or vacancies. Permanent closure of service. Asset subject to the usual asset disposal process, , which needs to take in to account the HWB lease arrangements for the next 5 years.
Lime Tree Nursery	Opportunity to TUPE staff to PVI provider. If no viable provider, close service. Asset subject to the usual asset disposal process, which needs to take in to account the HWB lease arrangements for the next 5 years.
Oaklands Park Nursery	Opportunity to TUPE staff to PVI provider. If no viable provider, close service. Asset subject to the usual asset disposal process.
Park Road Nursery	Opportunity to TUPE staff to PVI provider. If no viable provider, close service. Asset currently partially occupied by CYP services on the first floor. The remainder will be marketed on the open market as appropriate.
Reameadow Nursery	Opportunity to TUPE staff to PVI provider. If no viable provider, close service. Asset subject to the usual asset disposal process.
Soho Nursery	Opportunity to TUPE staff to PVI provider. If no viable provider, close service. Asset subject to the usual asset disposal process, which needs to take in to account the HWB lease arrangements for the next 5 years.
St Benedicts Nursery	The building is owned by the council and staff are in the BCC early years structure. The service will be offered to school in the first instance with staff transferred internally. If no interest from the school the service will be offered to the market.
Summerfield Nursery	Opportunity to TUPE staff to PVI provider. If no viable provider, close service. Asset subject to the usual asset disposal process.
Sunshine Nursery	Opportunity to TUPE staff to PVI provider. If no viable provider, close service. This is not an education Asset and therefore will be returned to the owning portfolio (Place) This will only apply to the Day Nursery and not the HWB lease arrangements for the next 5 years.

Detailed Data for Day nurseries

	Financial viability		Provider interest	Sufficiency Duty	
Day Nursery	Financial performance of Day Nursery 2017/18	Financial projections based on improvement plan for 2018/19	Market Provider Interest?	Sufficiency Duty (against old wards - new ward boundary data currently unavailable)	Recommendation
Bertram Road	-£94,062	-£131,039	Yes	No	The council no longer runs. Invite PVI market to submit proposals to take on running and TUPE transfer of existing BCC staff. Close and dispose of asset if no interest, which needs to take in to account the HWB lease arrangements for the next 5 years.
Birchfield	-£105,135	-£122,990	Yes	No	The council no longer runs. Invite PVI market to submit proposals to take on running and TUPE transfer of existing BCC staff. Close and dispose of asset if no interest.
Cherry Tree (due to be building only from September 18)	£5,897	-£89,949	Yes	No	The council no longer runs. Permanent closure of service. Asset currently identified for educational use and will be retained until a final decision is made.
Golden Start	£20,000	-£12,165	Yes	No	The council no longer runs. Offer to South & City College. If no interest, offer to the market.
Kitts Green	-£85,235	-£126,348	Yes	No	The council no longer runs. Permanent decommission of service. Dispose of asset.
Ladywood (due to be building only from September 18)		-£57,965	Yes	No	The council no longer runs. Permanent closure of service. Dispose of asset, which needs to take in to account the HWB lease arrangements for the next 5 years.
Lime Tree	-£13,352	-£119,269.90	Yes	No	The council no longer runs. Invite PVI market to submit proposals to take on running and TUPE transfer of existing BCC staff. Close and dispose of asset if no interest, which

					needs to take in to account the HWB lease arrangements for the next 5 years.
Oaklands Park	-£150,194	-£153,331	Yes	No	The council no longer runs. Due diligence exercise for market provider to take on running and TUPE transfer of existing BCC staff.. Closure and dispose of asset if no interest.
Park Road	-£125,069	-£94,441	Yes	Yes	The council no longer runs. Invite PVI market to submit proposals to take on running and TUPE transfer of existing BCC staff. Asset currently partially occupied by CYP services. The remainder will be marketed on the open market as appropriate.
Reameadow	-£251,842	-£134,771	Yes	Yes	The council no longer runs Invite PVI market to submit proposals to take on running and TUPE transfer of existing BCC staff. Closure and dispose of asset if no interest.
Soho	-£13,428	-£150,564	Yes	Yes	The council no longer runs. Permanent closure of service. Dispose of asset, which needs to take in to account the HWB lease arrangements for the next 5 years.
St Benedicts	-£2,447	-£44,737	Yes	No	The council no longer runs. Offer to school. If no interest, offer to the market
Summerfield	-£113,063	-£117,483	Yes	Yes	The council no longer runs Invite PVI market to submit proposals to take on running and TUPE transfer of existing BCC staff. Closure and dispose of asset if no interest.
Sunshine	-£37,769	-£76,622	Yes	No	The council no longer runs. Invite PVI market to submit proposals to take on running and TUPE transfer of existing BCC staff. If no viable provider, close service. This is not an education Asset and therefore will be returned to the owning portfolio (Place).